

## GENERAL PROVISIONS

(Supply Contract)

### 1. DEFINITIONS

As used throughout this contract, the following terms shall have the meaning set forth below:

- (a) The term "head of the agency" or "Secretary" means the Secretary, the Under Secretary, any Assistant Secretary, or any other head or assistant head of the executive or military department or other Federal agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the head of the agency or the Secretary.
- (b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.
- (c) Except as otherwise provided in this contract, the term "subcontracts" includes purchase orders under this contract.

### 2. CHANGES

The Contracting Officer may at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract, in any one or more of the following:

- (i) Drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the Government in accordance therewith; (ii) method of shipment or packing; and (iii) place of delivery. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change: *Provided, however,* That the Contracting Officer, if he decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Where the cost of property made obsolete or excess as a result of a change is included in the Contractor's claim for adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of such property. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

### 3. EXTRAS

Except as otherwise provided in this contract, no payment for extras shall be made unless such extras and the price therefor have been authorized in writing by the Contracting Officer.

### 4. VARIATION IN QUANTITY

No variation in the quantity of any item called for by this contract will be accepted unless such variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only to the extent, if any, specified elsewhere in this contract.

### 5. INSPECTION

(a) All supplies (which term throughout this clause includes without limitation raw materials, components, intermediate assemblies, and end products) shall be subject to inspection and test by the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance.

(b) In case any supplies or lots of supplies are defective in material or workmanship or otherwise not in conformity with

the requirements of this contract, the Government shall have the right either to reject them (with or without instructions as to their disposition) or to require their correction. Supplies or lots of supplies which have been rejected or required to be corrected shall be removed or, if permitted or required by the Contracting Officer, corrected in place by and at the expense of the Contractor promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If the Contractor fails promptly to remove such supplies or lots of supplies which are required to be removed, or promptly to replace or correct such supplies or lots of supplies, the Government either (i) may by contract or otherwise replace or correct such supplies and charge to the Contractor the cost occasioned the Government thereby, or (ii) may terminate this contract for default as provided in the clause of this contract entitled "Default." Unless the Contractor corrects or replaces such supplies within the delivery schedule, the Contracting Officer may require the delivery of such supplies at a reduction in price which is equitable under the circumstances. Failure to agree to such reduction of price shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes."

(c) If any inspection or test is made by the Government on the premises of the Contractor or a subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. If Government inspection or test is made at a point other than the premises of the Contractor or a subcontractor, it shall be at the expense of the Government except as otherwise provided in this contract: *Provided,* That in case of rejection the Government shall not be liable for any reduction in value of samples used in connection with such inspection or test. All inspections and tests by the Government shall be performed in such a manner as not to unduly delay the work. The Government reserves the right to charge to the Contractor any additional cost of Government inspection and test when supplies are not ready at the time such inspection and test is requested by the Contractor or when reinspection or retest is necessitated by prior rejection. Acceptance or rejection of the supplies shall be made as promptly as practicable after delivery, except as otherwise provided in this contract; but failure to inspect and accept or reject supplies shall neither relieve the Contractor from responsibility for such supplies as are not in accordance with the contract requirements nor impose liability on the Government therefor.

(d) The inspection and test by the Government of any supplies or lots thereof does not relieve the Contractor from any responsibility regarding defects or other failures to meet the contract requirements which may be discovered prior to acceptance. Except as otherwise provided in this contract, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.

(e) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the supplies hereunder. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of this contract and for such longer period as may be specified elsewhere in this contract.

### 6. RESPONSIBILITY FOR SUPPLIES

Except as otherwise provided in this contract, (i) the Contractor shall be responsible for the supplies covered by this contract until they are delivered at the designated delivery point, regardless of the point of inspection; (ii) after delivery to the Government at the designated point and prior to acceptance by the Government or rejection and giving notice thereof by the Government, the Government shall be responsible for the loss or destruction of or damage to the supplies only if such loss, destruction,

(a) The Contractor agrees that the Comptroller General of the United States or any of his duly authorized representatives shall, until expiration of 3 years after final payment under this contract, or of the time periods for the particular records specified in Part I-20 of the Federal Procurement Regulations (41 CFR

(b) The following clause is applicable if the amount of this contract exceeds \$2,500 and was entered into by means of negotiation, but formal advertising.)

#### 10. EXAMINATION OF RECORDS

work contemplated by this contract. of persons supplying labor or materials in the prosecution of the from time to time to protect the interests of the Government and promptly furnish such additional security as may be required. time to time as requested by the Government, the Contractor shall surety fails to furnish reports as to his financial condition from contract becomes unacceptable to the Government or if any such If any surety upon any bond furnished in connection with this

#### 9. ADDITIONAL BOND SECURITY

the Contracting Officer. closed, to such assignee upon the prior written authorization of be furnished, or any information contained therein may be dis- However, a copy of any part or all of this contract so marked may contract or to any other person not entitled to receive the same. be furnished to any assignee of any claim arising under this this contract, if marked "Top Secret," "Secret," or "Confidential," specifications, or other similar documents relating to work under (b) In no event shall copies of this contract or of any plans, 15, 1951, 65 Stat. 41.)

Assignment of Claims Act of 1940, as amended by the Act of May President pursuant to Clause 4 of the proviso of section 1 of the partment or agency of the United States designated by the Administration, the Federal Aviation Agency, or any other de- Atomic Energy Commission, the National Aeronautics and Space Department of Defense, the General Services Administration, the war or national emergency as defined in said Act and is with the preceding sentence applies only if this contract is made in time of in said Act, as amended, be subject to reduction or setoff. (The become due under this contract shall not, to the extent provided in this contract, payments to an assignee of any moneys due or to participating in such financing. Unless otherwise provided in made to one party as agent or trustee for two or more parties party, except that any such assignment or reassignment may be and not already paid, and shall not be made to more than one assignment shall cover all amounts payable under this contract reassignment to any such institution. Any such assignment or re- lending agency, and may thereafter be further assigned and Act of 1940, as amended (31 U.S.C. 203, 41 U.S.C. 15), if this con- tract provides for payments aggregating \$1,000 or more, claims for moneys due or to become due the Contractor from the Govern- ment under this contract may be assigned to a bank, trust com- pany, or other financing institution, including any Federal

#### 8. ASSIGNMENT OF CLAIMS

contract. or exceed either \$1,000 or 50 percent of the total amount of this total deliveries shall be made whenever such payment would equal or, when requested by the Contractor, payment for accepted par- ernment when the amount due on such deliveries so warrants; payment will be made on partial deliveries accepted by the Gov- deductions, if any, as herein provided. Unless otherwise specified, delivered and accepted or services rendered and accepted, less invoices or vouchers, the prices stipulated herein for supplies The Contractor shall be paid, upon the submission of proper

#### 7. PAYMENTS

Government acting within the scope of their employment. from the gross negligence of officers, agents, or employees of the to the supplies only if such loss, destruction or damage results ment shall be responsible for the loss, or destruction of, or damage rejected supplies after notice of rejection, except that the Govern- employees of the Government acting within the scope of their employment; and (iii) the Contractor shall bear all risks as to

Payment for completed supplies delivered to and accepted by the of the Contractor in which the Government has an interest. Contracting Officer, protect and preserve property in possession of the Contractor, and the Contractor shall, upon direction of the been terminated; and the Contractor shall, upon direction of the Contractor for the performance of such part of this contract as has ac- uired for the Contractor has specifically produced or specifically (terials") as the Contractor has specifically produced or specifically and contract rights (hereinafter called "manufacturing ma- parts, tools, dies, jigs, fixtures, plans, drawings, information, supplies, and (ii) such partially completed supplies and materials, extent directed by the Contracting Officer, (i) any completed the and deliver to the Government, in the manner and to the provided in this clause, may require the Contractor to transfer (a) of this clause, the Government, in addition to any other rights (b) If this contract is terminated as provided in paragraph meet the required delivery schedule.

from other sources in sufficient time to permit the Contractor to or services to be furnished by the subcontractor were obtainable ne negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies the Contractor and subcontractor, and without the fault or an if such default arises out of causes beyond the control of both failure to perform is caused by the default of a subcontractor, and without the fault or negligence of the Contractor. If the in every case the failure to perform must be beyond the control strikes, freight embargoes, and unusually severe weather; but trial capacity, fires, floods, epidemics, quarantine restrictions, enemy, acts of the Government in either its sovereign or con- may include, but are not restricted to, acts of God or of the public without the fault or negligence of the Contractor. Such causes perform the contract arises out of causes beyond the control and Contractor shall not be liable for any excess costs if the failure to (c) Except with respect to defaults of subcontractors, the under the provisions of this clause.

supplies or services. *Provided*, That the Contractor shall continue be liable to the Government for any excess costs for such similar services similar to those so terminated, and the Contractor shall as the Contracting Officer may deem appropriate, supplies or Government may procure, upon such terms and in such manner who or in part as provided in paragraph (a) of this clause, the (b) In the event the Government terminates this contract in failure.

receipt of notice from the Contracting Officer specifying such as the Contracting Officer may authorize in writing) after such failure within a period of 10 days (or such longer period terms, and in either of these two circumstances does not cure endanger performance of this contract in accordance with its (ii) If the Contractor fails to perform any of the other pro- visions of this contract, or so fails to make progress as to extension thereof; or

to perform the services within the time specified herein or any (i) If the Contractor fails to make delivery of the supplies or the following circumstances:

graph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this contract in any one of (a) The Government may, subject to the provisions of para-

#### 11. DEFAULT

for uniform applicability to the general public.

purchase orders for public utility services at rates established (1) purchase orders not exceeding \$2,500 and (2) subcontracts or contract. The term "subcontract" as used in this clause excludes such subcontract, involving transactions related to the sub- as directly pertinent books, documents, papers, and records of ever expires earlier, have access to and the right to examine the Federal Procurement Regulations (41 CFR Part I-20), which- of 3 years after final payment under the subcontract, or of the any of his duly authorized representatives shall, until expiration of 3 years after final payment under the subcontract, or of the Contractor agrees that the Comptroller General of the United States or Contractor hereunder a provision to the effect that the subcontract- (b) The Contractor further agrees to include in all his sub- it is contract. and records of the Contractor involving transactions related to right to examine any directly pertinent books, documents, papers, access to and the

United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic employed in violation of the provisions of paragraph (a) in the sum of \$10 for each calendar day on which such employee was required or permitted to be employed on such work in excess of eight hours or in excess of his standard workweek of forty hours without payment of the overtime wages required by paragraph (a).

(c) Withholding for unpaid wages and liquidated damages. The Contracting Officer may withhold from the Government Prime Contractor, from any moneys payable on account of work performed by the Contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions of paragraph (b).

(d) Subcontracts. The Contractor shall insert paragraphs (a) through (d) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(e) Records. The Contractor shall maintain payroll records containing the information specified in 29 CFR 516.2(a). Such records shall be preserved for three years from the completion of the contract.

#### 17. WALSH-HEALEY PUBLIC CONTRACTS ACT

If this contract is for the manufacture or furnishing of materials, supplies, articles, or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act, as amended (41 U.S. Code 35-45), there are hereby incorporated by reference all representations and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect.

#### 18. EQUAL OPPORTUNITY

(The following clause is applicable unless this contract is exempt under the rules, regulations, and relevant orders of the Secretary of Labor (41 CFR, ch. 60).)

During the performance of this contract, the Contractor agrees as follows:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this Equal Opportunity clause.

(b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under this Equal Opportunity clause, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the Equal Opportunity clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Contractor will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however,* That in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### 19. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident Commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

#### 20. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

#### 21. UTILIZATION OF SMALL BUSINESS CONCERNS

(a) It is the policy of the Government as declared by the Congress that a fair proportion of the purchases and contracts for supplies and services for the Government be placed with small business concerns.

(b) The Contractor agrees to accomplish the maximum amount of subcontracting to small business concerns that the Contractor finds to be consistent with the efficient performance of this contract.

#### 22. UTILIZATION OF CONCERNS IN LABOR SURPLUS AREAS

(The following clause is applicable if this contract exceeds \$5,000.)

It is the policy of the Government to place contracts with concerns which will perform such contracts substantially in or near concentrated unemployment or underemployment sections of States or in areas of persistent or substantial labor surplus, where this can be done consistent with the efficient performance of the contract and at prices no higher than are obtainable elsewhere. The Contractor agrees to use his best efforts to place his subcontracts in accordance with this policy. In complying with the foregoing and with paragraph (b) of the clause of this contract entitled "Utilization of Small Business Concerns" the Contractor in placing his subcontracts shall observe the following order of preference: (a) Certified-eligible concerns which are also small business concerns; (b) other certified-eligible concerns; (c) persistent labor surplus area concerns which are also small business concerns; (d) other persistent labor surplus area concerns; (e) substantial labor surplus area concerns which are also small business concerns; (f) other substantial labor surplus area concerns; and (g) small business concerns which are not labor surplus area concerns.

